

### REMARKS

This responds to the Office Action dated September 12, 2006. No claims are amended, no claims are canceled, and no claims are added, therefore, claims 14-46 remain pending in this application.

#### Double Patenting Rejection

Claims 14-47 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-21 of U.S. Patent No. 6,522,925.

Claims 14-47 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-13 of U.S. Patent No. 6,493,579.

Applicant respectfully traverses. The rejections state: *Although the conflicting claims are not identical, they are not patentably distinct from each other because current claims amount to an obvious variant of the patented claims.* Applicant respectfully asserts that these statements are conclusory and do not provide a *prima facie* case for an obviousness-type double patenting rejection.

#### §102 Rejection of the Claims

Independent claim 14 was rejected under §102 using three references. Independent claim 14 recites a programmer for a user to program a pulse generator to detect a clinical rhythm and selectively apply therapy for the detected clinical rhythm, comprising a first module and a second module. As recited in the claim, both the first and second modules receive user-provided selections. Thus, appropriate enhancements can be programmed by a process of selection (e.g. *Specification* at page 5 line 14 lines 7-19). As further recited in claim 14, the first module receives a user-provided selection of a clinical rhythm. The clinical rhythm is associated with one or more available detection enhancements that are made available based on the selected clinical rhythm for selection by the user to add specificity for determining when to deliver shock therapy for the selected clinical rhythm. The first module is preprogrammed to provide a selection of at least one detection enhancement from the one or more available detection enhancements that are associated with the clinical rhythm. The second module receives a user-

provided selection to modify the selection of the at least one detection enhancement provided by the preprogrammed first module to at least one other detection enhancement from the one or more available detection enhancements that are associated with the clinical rhythm.

Should any of the rejections be maintained, Applicant respectfully requests that the language of the claims be applied against the references, particularly identifying each portion of the reference relied upon to show each element of the claims.

Claims 14-17 were rejected under 35 U.S.C. § 102(b) as being anticipated by **Snell et al.** (U.S. Patent No. 5,716,382). Applicant respectfully traverses for at least the following reasons. The cited portions of Snell et al. relate to a hierarchy of programmable parameters divided into key and subordinate parameters. Applicant cannot find, among other things in the cited portions of Snell et al. a user-provided selection of a clinical rhythm, a preprogrammed selection of at least one detection enhancement from the one or more available detection enhancements that are associated with the clinical rhythm, and a user-provided selection to modify the selection of the at least one detection enhancement. Therefore, Applicant cannot find, in the cited portions of Snell et al., a programmer with the first and second modules recited in claim 14. Claims 15-17 are dependent on claim 14. These dependent claims recite additional features, and are believed to be allowable at least for the reasons provided with respect to claim 14. Withdrawal of the rejection, and reconsideration and allowance of the claims are respectfully requested.

Claims 14-17 were rejected under 35 U.S.C. § 102(b) as being anticipated by **Haluska et al.** (U.S. Patent No. 4,830,006). Applicant respectfully traverses for at least the following reasons. The cited portions of Haluska et al. relate to four detection criteria that form the foundation of an arrhythmia detection system. Applicant cannot find, among other things in the cited portions of Haluska et al. a user-provided selection of a clinical rhythm, a preprogrammed selection of at least one detection enhancement from the one or more available detection enhancements that are associated with the clinical rhythm, and a user-provided selection to modify the selection of the at least one detection enhancement. Therefore, Applicant cannot find, in the cited portions of Haluska et al., a programmer with the first and second modules recited in claim 14. Claims 15-17 are dependent on claim 14. These dependent claims recite

additional features, and are believed to be allowable at least for the reasons provided with respect to claim 14. Withdrawal of the rejection, and reconsideration and allowance of the claims are respectfully requested.

Claims 14-17 were rejected under 35 U.S.C. § 102(b) as being anticipated by **EP-0617980**. Applicant respectfully traverses for at least the following reasons. The cited portions of the reference relate to a rhythm classification system. However, Applicant cannot find, among other things in the cited portions of the reference a user-provided selection of a clinical rhythm, a preprogrammed selection of at least one detection enhancement from the one or more available detection enhancements that are associated with the clinical rhythm, and a user-provided selection to modify the selection of the at least one detection enhancement. Therefore, Applicant cannot find, in the cited portions of the reference, a programmer with the first and second modules recited in claim 14. Claims 15-17 are dependent on claim 14. These dependent claims recite additional features, and are believed to be allowable at least for the reasons provided with respect to claim 14. Withdrawal of the rejection, and reconsideration and allowance of the claims are respectfully requested.

*Consideration of Withdrawn Claims*

As provided in Applicant's previous response to the restriction requirement, Applicant believes that at least independent claim 14 is generic to the species identified by the Examiner. In accordance with 37 CFR 1.141, Applicant respectfully requests consideration of the withdrawn claims upon the allowance of a generic claim.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6960 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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By their Representatives,

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Date 12-12-06

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**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 12 day of December 2006.

Name

Signature